

## **REMARKS**

Initially, the Applicants express their appreciation to the Examiner for his careful search and most helpful comments.

In regard to the IDS objections, the Applicants have submitted herewith the two non-patent references previously referred to. Applicants state that they were unaware of the date of such Japanese-language references apart from any statement thereon, but stipulate that such non-patent references as described in the Information Disclosure Statement are in fact prior art herein.

Also, the Title of the Invention has been amended, as suggested.

In regard to the rejections over the art, the limitations of previous claim 3 have been incorporated now into independent claim 1. Accordingly, claim 1, as amended, now provides that the continuous phase comprises (a) an inorganic filler and (b) an aliphatic polyester, and a disperse phase comprising polylactic acid. Moreover, such aliphatic polyester component accounts to proportion not less than 50% by weight of the material. And wherein the polylactic acid disperse phase is dispersed in the form of particles, such particles dispersed within the inorganic filler containing aliphatic polyester continuous phase. It is believed that this physical structure clearly distinguishes over the compositions of the cited prior art.

Manifestly, neither of the Tsai et al. or the Obuchi et al. primary references teaches the inventive structure of the Applicants herein, and specifically where an inorganic filler material is contained only within a continuous phase comprising an aliphatic polyester. In that regard the Tsai et al. patent teaches nothing whatsoever as to the method of inclusion or incorporation of inorganic fillers, but merely mentions that the components could be added (Tsai, column 8, lines 23-43). The teachings of the Obuchi et al. reference are no more relevant. Specifically, Obuchi teaches mixing the polylactic acid component together

with the aliphatic polyester component (i.e. the polybutylene 6 and 8 resin) and further together with "an inorganic filler" (see Obuchi et al. col. 12, lines 43-50); also see column 12, lines 59-65. Accordingly, and in direct contrast to the structure of the Applicants invention, (as presently claimed in claim 1, as amended), the Obuchi et al. reference teaches that the inorganic filler is also contained within the polylactic acid component of the mixture. Moreover, there is no teaching or suggestion in Obuchi et al. that there even are two phases, which is a further distinction of the Applicants claims as set forth in the amendments hereof.

Nor does any of the remaining cited prior art cure the above insufficiencies of all of the primary references (Tsai et al., Obuchi et al.).

In addition, the patentability of prior claim 9 (now set forth as new independent claim 12) is argued separately. Specifically, the rejection of prior claim 9 appears to be based upon the following statement in the Official Action.

"Further, while Tsai et al. or Obuchi et al. do not disclose the specific diameters of the dispersed polylactic acid, the particle diameters claimed by applicant would have been within the range of particle diameters for the dispersed polylactic acid in the prior art, given that the compositional ranges overlap in scope." (See Official Action, page 5).

It is respectfully submitted that this statement is a non sequitur. Specifically, the compositional ranges referred to appear to refer to the percentages of the various components. Manifestly, the percentages of various parts for composition has nothing whatsoever to do with the particle diameter of any such component. Accordingly, prior claim 9 (now rewritten as independent claim 12) is likewise allowable.

### **CONCLUSION**

Based upon the above amendments and remarks, it is respectfully submitted that each of the presently pending claims, is now allowable, and an early Notice of Allowance is respectfully solicited.

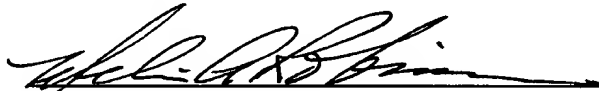
Respectfully submitted,



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### **CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on June 28, 2000.



Melvin A. Robinson


Furthermore, Applicants respectfully point out that the final action by the Examiner presented some new arguments as to the application of the art against Applicants' invention. It is respectfully submitted that the entering of this Amendment would allow the Applicants to reply to the final rejections and place the application in condition for allowance. Finally, Applicants submit that the entry of the amendment would place the application in better form for appeal, should the Examiner further dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicants submit that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the entry of this Amendment, the Examiner's reconsideration and the continued examination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,  
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GARRETT & DUNNER, L.L.P.

Dated: November 6, 2003

By:   
Barry D. Biddle  
Reg. No. 44,033

**Attachments:**

**Appendix A: Original Japanese Paragraph**  
**Appendix B: Translation of Appendix A**  
**Appendix C: Marketing Brochure for Bionolle**  
**Appendix D: Translation of Appendix C**  
**Appendix E: Safety Data Sheet for Bionolle**  
**Appendix F: Translation of Appendix E**  
**Appendix G: Merriam-Webster Online Dictionary Entries**  
**for: interlock, interconnect, tie (v), and tie (n)**

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